

\*\*E-filed 4/23/07\*\*

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 12

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15

16 ESTATE OF SANDRA ELLIS, by and through a  
 17 Successor in Interest, THOMAS ELLIS, an  
 Individual,

18 Plaintiff,  
 19

20 vs.

21 MERCK & COMPANY, INC., a corporation;  
 McKESSON CORPORATION, a corporation;  
 AMERISOURCEBERGEN DRUG  
 22 CORPORATION, a corporation; DOES 1 to 100;  
 PHARMACEUTICAL DEFENDANT DOES 101  
 23 to 200; and DISTRIBUTOR DOES 201 to 300,  
 inclusive,

24 Defendants.  
 25

Case No. C 07-0074 JF

**STIPULATION AND [PROPOSED]  
 ORDER STAYING RULE 26(F) AND  
 INITIAL SCHEDULING CONFERENCES  
 PENDING RULINGS ON THE STAY AND  
 REMAND HEARINGS AND PENDING A  
 RULING BY THE JPML ON TRANSFER  
 TO MDL NO. 1657**

Honorable Jeremy Fogel

1 TO THE CLERK OF THE COURT OF THE UNITED STATES DISTRICT COURT FOR  
2 THE NORTHERN DISTRICT OF CALIFORNIA, PLAINTIFF AND DEFENDANT, THROUGH  
3 THEIR ATTORNEYS, FILE THIS STIPULATION AND PROPOSED ORDER.  
4

5 This case, *Estate of Sandra Ellis v. Merck & Co., Inc., et al.* Case Number 07-0074 JF, was  
6 filed in state court on September 26, 2006 and removed to this Court on January 5, 2007.  
7

8 No discovery has been conducted or scheduled.  
9

10 On January 12, 2007, Merck, pursuant to Rule 7.5(c) of the Rules of Procedure of the  
11 Judicial Panel on Multidistrict Litigation ("R.P.J.P.M.L."), provided notice to the MDL Panel of the  
12 pendency of this "tag-along" action and furnished the MDL Panel with a copy of the docket sheet  
13 and complaint. Merck requested that the MDL Panel transfer this action to the multidistrict litigation  
14 known as In re Vioxx Products Liability Litigation, MDL No. 1657, currently pending in the Eastern  
15 District of Louisiana, District Judge Eldon Fallon presiding. On February 1, 2007, the JPML issued  
16 a Conditional Transfer Order conditionally transferring this case to the Vioxx MDL proceeding in  
17 the Eastern District of Louisiana. Plaintiff opposed the transfer of this case to the Vioxx MDL, and  
18 the case is currently awaiting hearing to determine whether the case will be transferred to the Vioxx  
19 MDL.  
20

21 On January 26, 2007, Merck filed a motion to stay all proceedings pending transfer of this  
22 case to the Vioxx MDL. On February 1, 2007, Plaintiff filed a motion to remand this case to Los  
23 Angeles County Superior Court. The hearings for both of these motions are currently scheduled for  
24 Friday, April 27, 2007 at 9:00 a.m. in Courtroom 3. An initial Case Management Conference it also  
25 set for Friday, April 27, 2007 at 9:00 a.m. in Courtroom 3.  
26

27 In light of both the upcoming hearings for Merck's motion to stay and Plaintiff's motion to  
28 remand as well as the upcoming hearing concerning transfer of this case to the Vioxx MDL, the

1 parties respectfully request that further Joint Status Reports be postponed and that Discovery  
2 Conferences be continued so as to allow this Court to Rule on the Stay and Remand Motions and to  
3 allow the JPML to rule on transfer of this tag along action.

4  
5 By signing this stipulation, the parties do not concede their positions on any pending motions  
6 or other issues currently before this Court.

7  
8 SO STIPULATED.

9  
10  
11 Dated: April 20, 2007

REED SMITH LLP

12  
13 By: Alison B. Riddell  
14 Alison B. Riddell  
15 Attorney for Defendant  
16 MERCK & CO., INC.

17  
18  
19 Dated: April 20, 2007

GREEN BROILLET & WHEELER LLP

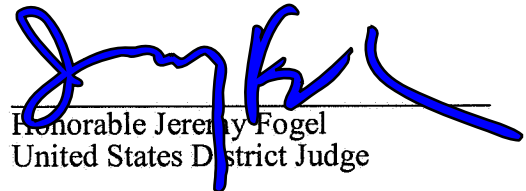
20  
21 By: Bruce C. Fishelman  
22 Bruce C. Fishelman  
23 Attorney for Plaintiff  
24 Thomas Ellis, representing the Estate of Sandra  
25 Ellis  
26  
27  
28

REED SMITH LLP  
Admitted liability partnership formed in the State of Delaware

**PROPOSED ORDER**

IT IS HEREBY ORDERED the above terms of this Stipulation are approved by this Court.

Dated: 4/23/07

  
Honorable Jeremy Fogel  
United States District Judge

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware